

Exempt organizations that have E numbers are allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See, 86 Ill. Admin. Code 130.2005. (This is a GIL.)

January 6, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated September 29, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Last month you sent a letter to COMPANY(should have been to the BUSINESS) requesting sales tax and state income taxes from the milkshake sales at our booth at the County Fair. The BUSINESS is not aware that our booth owed taxes on our sales. One-half of our proceeds go directly to the Cooperative Extension Service. The balance of our proceeds go to County residents who are selected by the SCHOOL as delegates and Exchange students as partial scholarships to help defray their expenses.

I am sure the State of Illinois along with the COMPANY want to have as many dollars as are possible to go towards the development of our youth. Payment of these taxes would necessarily take away money from this positive venture. Some of those programs are offered through both Cooperative Extension Service and the COMPANY program.

The Committee would appreciate a ruling by the Illinois Department of Revenue to determine if this tax is due and if so, does the possibility exists to this effect this change to Tax Exempt.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, or charitable, receive an exemption identification number (an "E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

For your general information, nonprofit country clubs, boat clubs, employees' clubs or organizations and other nonprofit social, athletic or

recreational organizations, lodges, patriotic organizations, fraternities, sororities, professional and trade associations, civic organizations, labor unions and other nonprofit organizations are not considered to be exclusively charitable, religious or educational and are consequently liable for Retailers' Occupation Tax when selling tangible personal property at retail to members, guests or others.

Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability.

In regards to sales to members by exempt organizations, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. If such sales are made to the public at large the selling activity is subject to the Retailers' Occupation Tax. See section 130.2005(a)(2) through (a)(4). In determining whether the sales are for the primary purpose of the selling organization depends on the nature of the tangible personal property sold and how that tangible personal property is used.

If exempt organizations engage in ongoing selling activities (such as Little League concession stands or sales of items in a thrift shop run by a church etc.), those organizations must register with the Department as retailers, file returns and remit tax.

Please be informed that this office no longer performs the function of processing sales tax exemption identification numbers. This work is now done by the Department's Local Government Services Bureau, and they can be reached at (217) 785-8661.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Encl.